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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/014,228	12/11/2001	Antonio Colmenarez	US010545	3088

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS  
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EXAMINER
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CZEKAJ, DAVID J

ART UNIT	PAPER NUMBER
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2621

DATE MAILED: 07/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/014,228

Applicant(s)

COLMENAREZ ET AL

Examiner

Dave Czekaj

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2,5,7-18,21 and 23-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2,5,7-18,21 and 23-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

On pages 9-10, applicant argues that Simerly fails to disclose recognizing continuous movement of a head since the face Simerly tracks is not a head. While the applicant's points are understood, the examiner respectfully disagrees. The examiner notes that a face is part of a head. Therefore, by tracking the movement of the face of a customer, Simerly is also tracking the head of the customer. Further Simerly discloses in column 15, lines 31-32, that the techniques may also be used to track and zoom in on a face or *other portion of the body*. By adjusting the zoom Simerly can easily track any portion of the body as illustrated in figure 12. Therefore the rejection has been maintained.

On page 11, applicant argues that Aviv and Simerly are an improper combination since Simerly would change the principle of operation of Aviv. While the applicant's points are understood, the examiner respectfully disagrees. Simerly discloses in column 20, lines 15-18, that video information is streamed to the user's workstation, still allowing the system of Aviv to determine velocity, acceleration, and change of acceleration. Further the examiner notes that the operation principle of Aviv has not been identified. Therefore the rejection has been maintained.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 2, 5, 7, 9, 10, 12-13, 16-18, 21, 23, and 26-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aviv (US 6,028,626) in view of Simerly et al. (6954859), (hereinafter referred to as "Simerly").

As for claims 5, 9, 10, 16, 17, and 21, Aviv teaches of means for observing behavior in a predetermined area under surveillance (Aviv: Column 3, Lines 21-55); means for processing an output of observed behavior from said means for observing, said means for processing including a pattern recognition means for recognizing whether said observed behavior is associated with predefined suspicious behavior (i.e. potential crime); means for notifying that said pattern recognition means recognizes at least one behavioral pattern associated with said set of predefined suspicious behaviors has been observed by said means of observing (Aviv: Column 9, Lines 38-45). Aviv teaches of said means for notifying includes warning signals communicated to a monitoring site, includes a plurality of alert codes corresponding to a severity level of said at least one behavioral pattern associated with said set of predefined suspicious behaviors recognized by said pattern recognition means (Aviv: , Column 9, Lines 23-37. Note the invention shows different responses depending on the situation (i.e. light or dark) and also gives a multitude of different possible responses to criminal activity detection). However, Aviv fails to teach recognizing the movement of a head of a shopper. Simerly teaches that prior art surveillance systems do not fully take advantage of the possibilities offered by digital cameras (Simerly: column 1, lines 13-16). To help alleviate this problem, Simerly discloses "recognizing continuous movement of a head

of a particular shopper” (Simerly: column 15, lines 31-35, wherein the shopper is the person). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to take the apparatus disclosed by Aviv and add the head tracking taught by Simerly in order to obtain an apparatus that operates more efficiently by being able to easily follow a shopper throughout the store.

As for claim 2 and 18, Aviv teaches of said means for observing includes cameras (Aviv: Column 4, Lines 64-67).

As for claim 7 and 23, Aviv teaches of wherein said area under surveillance includes a retail store, and said predefined suspicious behaviors recognized by said pattern recognition means includes recognizing a plurality of people entering the store as one group, said plurality subsequently separating into sub-groups in different portions of the store, and re-emerging as said one group when leaving the store (Note: Aviv shows the capability of separating the group and then following each individual (Aviv: Column 9, Lines 41-54, and Column 9, Lines 1-10, Column 10, Lines 17-31 (shows retail store))).

As for claims 12-13 and 26-29, note the examiners rejection for claim 9, and in addition, Aviv does not explicitly teach of said pattern recognition means further comprises recognizing that a particular shopper is carrying a bag, and manipulating the bag, however, Aviv does teach of a zoom capability that can focus and follow objects and determine patterns of them (Aviv: Column 5, Lines 55-67, and Column 6, Lines 1-29). It would have been obvious to one of ordinary skill in the art at the time of the invention to use the zoom capability of the invention to focus in on objects other than

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people because the subsequent action of an object (i.e. a gun or knife) is an immediate indication of suspicious activity.

3. Claims 8, 11, 14, 24-25, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aviv (US 6,028,626) in view of Simerly et al. (6954859), (hereinafter referred to as "Simerly") in further view of Brill (US 6,628,835).

Aviv does not explicitly teach of the following, however, Brill does: pattern recognition means including recognizing that a particular shopper has walked up and down a predetermine number of aisles without selecting an item for purchase (i.e. loitering which is defined as standing still or walking with many stops along the way), pattern recognition means including recognizing that a particular shopper has spent a predetermined amount of time in the store without selecting an item for purchase, a predetermined area outside of said store, and said pattern recognition means recognizing when a person is in the predetermined area outside of said store for a predetermined amount of time (Note: Loiter is used by Brill to determine if a person has been inactive for a certain amount of time and if so then an alarm is activated, Brill: Column 7, Lines 6-24, Also note that it is considered an obvious variation to look for inactivity inside or outside the store). It would have been obvious to one of ordinary skill in the art at the time of the invention to take into account the idea of loitering because it is considered suspicious activity by Brill and Aviv allows for all suspicious activity to be accounted for in his invention.

4. Claims 15 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aviv (US 6,028,626) in view of Simerly et al. (6954859), (hereinafter referred to as "Simerly") in further view of NMSU Police Department.

Although Aviv does not explicitly teach of pattern recognition means recognizes that a particular shopper is wearing a coat when an outside temperature is greater than a predetermined value, the NMSU Police Department does (Under "What is Suspicious Behavior" the article reads "wearing heavy clothing in warm weather"). It would have been obvious to one of ordinary skill in the art at the time of the invention to take into account the idea of wearing a heavy coat in warm weather because it is considered suspicious activity by the NMSU Police Department and Aviv allows for all suspicious activity to be accounted for in his invention.

### ***Conclusion***

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dave Czekaj whose telephone number is (571) 272-7327. The examiner can normally be reached on Monday - Friday 9 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on (571) 272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DJC

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TC 2600